

Notice of Proposed Changes in Regulations of the Fish and Game Commission

(Continuation of California Notice Register 2002, No. 7-Z,
and Meeting of February 9, 2002)

(NOTE: The Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. See the text of this notice.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission, pursuant to the authority vested by sections 200, 202, 203, 203.1, 331, 332, 1050, 1572, 3452, 3453, 4005, 4009.5, 4751, 4902 and 10502 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 207, 331, 332, 460, 713, 1050, 1570-1572, 1801, 3452, 3453, 3800, 3950, 3951, 4005, 4009.5, 4330-4333, 4336, 4751, 4756, 4800-4805, 4902, 10500 and 10502 of said Code, has open to public review its regulations in Division 1, Title 14, California Code of Regulations, Part 2, Chapter 1, General Provisions and Definitions; Chapter 2, Resident Small Game; Chapter 3, Big Game; Chapter 4, Depredation; Chapter 5, Furbearing Mammals; and Chapter 6, Nongame Animals.

Pursuant to the provisions of sections 203 and 203.1 of the Fish and Game Code, the Fish and Game Commission will consider populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony in adopting season, bag and possession limits, and areas of take, and prescribe the manner and means of taking as part of the 2002-2003 Mammal Hunting and Trapping Regulations.

At the Fish and Game Commission's meeting on February 9, 2002, the Department of Fish and Game made the following recommendations for changes relative to game mammal, furbearer and nongame mammal regulations for the 2002-2003 seasons: proposes to amend sections 265, 308, 360, 361, 362, 363, 364, 365, 367, 368, 401, 460, 472, 474, 555, 601 and 711, repeal sections 370, 371, 372 and 373, and add sections 477 and 708, Title 14, California Code of Regulations, to make tag quota changes, clarifications, and urgency changes for the 2002-2003 Mammal Hunting and Trapping Regulations.

Proposed changes to sections as set forth in Notice Register 2002, No. 7-Z, remain the same, except for Sections 364 and 708. The New Informative Digests for Sections 364 and 708 have been added as follows.

New Informative Digest/Plain English Overview

Section 364, Elk.

Existing regulations provide elk license tag quotas for each hunt. The proposal changes license tag quotas for specific hunts and will: Increase the Shasta quota from one bull and four antlerless tags to five either-sex archery only tags and 10 either-sex general season tags; increase the Marble Mountains quota from 30 either-sex tags to 40 either-sex tags; change the Big Lagoon quota from 25 either-sex tags to 12 bull tags and 13 antlerless tags; change the Klamath quota from 30 either-sex tags to 15 bull tags and 15 antlerless tags; provide five either-sex archery only tags valid for established zones in the Owens Valley; and reduce the total bull tag quota for the Tinemaha zone from 10 to 6.

Existing regulations specify boundaries for the Shasta Rocky Mountain Elk Hunt. The proposed change significantly expands the current hunt zone from Shasta County to include portions of Modoc, Lassen and eastern Siskiyou counties, so that additional recreational opportunities can be provided consistent with the expansion of elk populations in and near the current hunt area. The hunt is renamed the Northeastern California Rocky Mountain Elk Hunt to reflect the major expansion of hunt zone boundaries.

Existing regulations specify the boundary for the Marble Mountains Roosevelt Elk Hunt, which occurs within a portion of western Siskiyou County. The proposed change expands the boundary for this hunt to include portions of Humboldt, Trinity and Shasta counties so that additional recreational opportunities can be provided consistent with the expansion of elk populations in and near the current hunt area.

Existing regulations specify the boundary for the Big Lagoon Roosevelt Elk Hunt. The proposed change expands the boundary of the Big Lagoon Roosevelt Elk Hunt within Humboldt County. A major private landowner within the hunt boundary (Simpson Timber Company) has requested that this boundary be expanded to allow hunters additional opportunity to hunt elk on their land.

Existing regulations specify boundaries and season dates for elk hunts within the Owens Valley, but do not provide an exclusive opportunity for archers to hunt elk. The proposed change establishes a nine day, archery only hunt period for existing zones in the Owens Valley beginning on the second Saturday in August. Under the proposed change, archery only tags are not valid during any other period, and no other tags are valid during the archery only period for the Owens Valley.

Existing regulations specify elk tag application and distribution procedures, including qualifying conditions and drawing details. The proposed change establishes new Subsection 708(d) and removes specific tag application and distribution procedures

and tagging and reporting requirements from existing regulations by placing them in that new Subsection.

Existing regulations require a \$6.50 nonrefundable application fee and an \$277.50 resident license tag fee for hunting elk. The proposed change increases the application fee to \$6.75 (for a single application; \$13.50 for a two-party application) and the resident license tag fee to \$286.75, to reflect the cost of living increase as specified in Section 713 of the Fish and Game Code.

Editorial changes are also proposed to improve the clarity and consistency of the regulations. Reference to trespassing is deleted from this Section to reduce redundancy, since trespassing already is prohibited by Fish and Game Code sections 2016 and 2017.

Based on public input, the initial proposal has been modified so that successful applicants for the 2001 Fort Hunter Liggett Tule Elk Hunt, who were denied an opportunity to hunt when the hunt was cancelled, can be issued tags for this hunt in 2002. Quotas for this hunt remain unchanged from their 2001 levels and a sufficient list of 2001 alternates is available to ensure that the 2002 hunt is fully subscribed. This change will essentially remove Fort Hunter Liggett Tule Elk tags from the public drawing for 2002.

Section 708, Big Game License Tag, Application,
Distribution and Reporting Procedures.

The proposed change establishes a new Section 708, by moving the tag application and distribution procedures for all big game into that new section. This change will facilitate future changes to the tag application and distribution procedures that may be recommended as a result of implementing the automated license data system (ALDS).

Existing regulations provide for the distribution of remaining C and D Zone, and additional hunt tags with a second deer tag application on the first business day after September 1 within the old Section 371 (now incorporated into the new Section 708(a)). The original intent of this deadline was to provide ample opportunity for unsuccessful draw applicants to acquire tags. However, many C and D zone archery seasons occur prior to the availability of these tags, unnecessarily restricting opportunity for archery hunters. The proposed change would move this date to the first business day following August 1, allowing ample time to acquire tags by unsuccessful draw applicants, and for the distribution of tags prior to the start of archery seasons in those C and D zones.

Existing regulations do not specifically address Fish and Game Code Sections that pertain to requirements for: tagging (FGC 4336); tag validation/countersigning and transportation for the purpose of, (FGC 4341); deer head retention and production

upon demand (FGC 4302); and deer violations and tag forfeiture (FGC 4340). These laws are not readily available to the general public, specifically hunters. In an effort to provide better public service, by making these laws readily available to hunters, the proposal incorporates all, or portions of these code sections into regulation.

Additionally, the existing regulations do not specify any means of providing a preference system for applicants that are unsuccessful in the drawing for premium deer tags, bighorn sheep tags, pronghorn antelope tags or elk tags. The amended proposal specifies that these unsuccessful hunters will be awarded a point that will be for future tag drawings employing a preference system.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the City Council Chambers, 333 W. Ocean Boulevard, Long Beach, on April 5, 2002, at 10:00 a.m., or as soon thereafter as the matter may be heard. Written comments may be submitted at the address given below, but must be received no later than April 5, 2002 at the hearing in Long Beach. Adoption of the new regulations will be by teleconference call meeting on April 25, 2002, in Sacramento. The public may attend this meeting to be held at 10:00 a.m. in the Resources Building, 1416 Ninth Street, Conference Room #1320. The Commission will certify the final environmental documents associated with the proposed regulatory action and consider adoption of the 2002 and 2003 Mammal Hunting and Trapping Regulations. The regulations as proposed in strikeout-underline format, as well as a statement of purpose, including environmental considerations and all information upon which the proposal is based, are on file and available for public review from John Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John Duffy at the preceding phone number. Copies of the statement of purpose, including the regulatory language, may be obtained from the above address.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may

obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

Economic Impact

The Commission has assessed the potential for significant adverse economic impact on business or private persons that might result from the proposed regulatory action and it has made the following determinations relative to the required statutory categories:

- (a) Significant Adverse Economic Impact on Businesses, including the Ability of California Businesses to Compete with Businesses in Other States: None.

Section 364 - The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Given the number of tags available to the public, this proposed change is minor in scope and economically neutral.

Section 708 - The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action.

- (b) Impact the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Economic Impact on Private Persons: None.
- (d) Costs or Savings to State agencies or Costs/Savings in Federal funding to the State: None.
- (e) Involve Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Mandate Programs on Local Agencies or School Districts: None.
- (g) Impose Costs to any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Affect Housing Costs: None.

Plain English Policy Statement

It has been determined that the adoption/amendment of these regulations will not affect small businesses in the ways identified in subsections (a)(1)-(4) of Section 4, Title 1, CCR.

Consideration of Alternatives

In order to take this action, the agency must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: February 26, 2002

Robert R. Treanor
Executive Director